

1 CHAD A. READLER
Acting Assistant Attorney General
2 Civil Division
3 WILLIAM C. PEACHEY
Director
4 GISELA A. WESTWATER
Assistant Director
5 SHEREASE PRATT (NY 2620912)
Senior Litigation Counsel
6 ADRIENNE ZACK (CA 291629)
JOSEPH HARDY (MD200612120374)
7 Trial Attorneys
8 U.S. Department of Justice
9 Office of Immigration Litigation
10 District Court Section
11 P.O. Box 868, Ben Franklin Station
12 Washington, DC 20044
13 Telephone: (202) 598-2446
14 Facsimile: (202) 305-7000
Email: adrienne.m.zack@usdoj.gov

15
16 Attorneys for the Defendants-Respondents

17 **UNITED STATES DISTRICT COURT**
18 **CENTRAL DISTRICT OF CALIFORNIA**

19 XOCHITL HERNANDEZ and) Civil Action No. 5:16-cv-00620-JGB-KKx
20 CESAR MATIAS, for themselves)
21 and on behalf of a class of) **Defendants' Initial Disclosures**
22 similarly-situated individuals,) Pursuant to Federal Rule of Civil
23) Procedure 26(a)(1)
24 Plaintiffs-Petitioners,)
25)
26 v.) **Honorable Jesus G. Bernal**
27)
28 JEFFERSON B. SESSIONS III,)
U.S. Attorney, *et al.*,)
Defendants-Respondents.)

DEFENDANTS' INITIAL DISCLOSURES

Pursuant to Fed. R. Civ. P. 26(a)(1), Defendants make the following Initial Disclosures to Plaintiffs.

By making these Initial Disclosures, Defendants do not represent that they are identifying every potential document, tangible thing, or witness possibly relevant to the claims raised in the Complaint. These Initial Disclosures represent a good faith effort to identify information Defendants reasonably believe is required by Fed. R. Civ. P. 26(a)(1).

Defendants make these Initial Disclosures without, in any way, waiving: (1) the right to object to the production of any document or tangible thing disclosed on the ground of admissibility, competency, privilege, the work product doctrine relevancy, materiality, Privacy Act, or any other valid ground; (2) the right to object to the use of any such information, for any purpose, in whole or in part, in any subsequent proceeding or any other action; and (3) the right to object on any and all grounds, at any time, to any other discovery request or proceeding involving, relating to or in any way pertaining to the subject matter of these disclosures.

Defendants make the disclosures set forth below subject to the above objections and qualifications and with the following reservation of rights: Defendants expressly reserve and maintain its right to supplement, amend, correct

1 and/or modify these Initial Disclosures as the discovery and/or disclosure of
 2 additional facts and/or circumstances may hereafter warrant.

3
 4 **A. Disclosures prescribed by Fed. R. Civ. P. 26(a)(1)(A)(i):**
 5 **Individuals likely to have discoverable information that Defendants**
 6 **may use to support their claims and defense.**

7 As of this date, Defendants believe that the individuals listed below are
 8 likely to have discoverable information to support their claims. Defendants have
 9 identified the name or title of each individual likely to have discoverable
 10 information that Defendants may use to support their claims, unless solely for
 11 impeachment. Please note that, on the basis of Exemption 7 of the Freedom of
 12 Information Act, 5 U.S.C. § 552(b)(7), where applicable, only employers and/or
 13 work addresses are provided. Defendants do not authorize Plaintiffs and/or their
 14 counsel to communicate about this litigation with the current government
 15 employees identified below. Instead, Plaintiffs must contact the individuals
 16 through undersigned counsel.

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 20 **Designated Agent/Employee, EOIR Defendants:**

- 21
 22 (1) Stephen Griswold, Assistant Chief Immigration Judge (“ACIJ”) for the
 23 Office of the Chief Immigration Judge (“OCIJ”), EOIR.

24
 25 The ACIJ for OCIJ has knowledge of facts relating to the EOIR policies
 26 and procedures applicable to custody redetermination hearings.
 27
 28

- 1 (2) Ben McDowell, Program Analyst for the Office of Planning, Analysis,
2 and Statistics, EOIR. (“OPAS”)

3 The Program Analyst for OPAS has knowledge of facts relating to the
4 EOIR database and statistics.
5

6 **Designated Agent/Employee, DHS Defendants:**
7

- 8 (1) Nathalie R. Asher, Acting Assistant Director, Field Operations,
9 Enforcement and Removal Operations, Immigration and Customs
10 Enforcement
11

12 Ms. Asher has knowledge from a nationwide prospective about the
13 procedures officers use to determine custody and how requirements to
14 consider any factor, such as the ability to pay, will be overly burdensome
15 for the agency.
16

- 17
18 (2) Julio C. Wilson, Assistant Field Office Director, Enforcement and
19 Removal Operations, Los Angeles, Immigration and Customs
20 Enforcement
21

22 Mr. Wilson has knowledge generally regarding how aliens are processed
23 and how custody determinations are made, including how bonds are
24 determined in the relevant jurisdiction
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Other Individuals:

- (1) Any and all individuals who may have information as to Plaintiffs' backgrounds and histories.
- (2) All individuals identified by Plaintiffs as part of their Fed. R. Civ. P. 26 disclosures.
- (3) Other witnesses who may be identified during discovery.

This list of individuals above is not intended to be, nor is it a limitation on, the matters on which these persons may testify. The names listed above should not be construed as an admission that any or all of the facts known to the individuals are discoverable, legally relevant or admissible. Defendants reserve all rights to raise appropriate legal challenges.

**B. Disclosures pursuant to Fed. R. Civ. P. 26(a)(1)(A)(ii):
A description by category and location of all documents,
electronically stored information, and tangible things that
Defendants may use to support their claims and defenses.**

As of this date, Defendants have identified the following documents, electronically stored information, and tangible things in their possession, custody, or control (or that they believe to be in the possession, custody or control of Defendants) or publically available and that Defendants may use to support their claims and defenses, unless solely for impeachment.

EOIR Defendants:

1. Uniform Docketing System Manual (2013)

2. OCIJ Practice Manual: Extracted portions relevant to Bond
3. OCIJ current Immigration Judge Bond Worksheet (June 2017)
4. Immigration Judge Benchbook
5. EOIR Statistics Yearbooks

ICE Defendants:

1. Report from the DHS Office of Inspector General titled “ICE Deportations Operations,” dated April 13, 2017.
2. Report from DHS Office of Inspector General, titled “U.S. Immigration and Custom’s Enforcement’s Alternatives to Detention (Revised), dated February 4, 2015.
3. Report from DHS Office of Inspector General titled “ICE’s Release of Immigration Detainees,” dated August 2014.
4. The GAO Report on Immigration Detention, dated October 2014

All Defendants:

1. All documents that Plaintiffs provide in their initial disclosures or that are produced during the course of discovery.

By providing the foregoing description of documents pursuant to Rule 26 (a)(1)(A)(ii), Defendants do not waive their right to withhold the production of any document in their possession which is subject to protection under the Privacy Act, Law Enforcement Privilege, Deliberative Process Privilege, attorney-client

1 privilege, work product protection or where the production of such document
2 would otherwise be unlawful. The documents listed above should not be construed
3 as an admission that any or all of the facts reflected in the documents are
4 discoverable, legally relevant, or admissible. Defendants reserve all rights to raise
5 appropriate legal challenges.
6

7
8 **C. Disclosure pursuant to Fed. R. Civ. P. 26(a)(1)(a)(iii):**
9 **Computation of any category of damages**

10 Defendants do not claim any damages in relation to this action.

11 **D. Disclosure pursuant to Fed. R. Civ. P. 26(a)(1)(A)(iv):**
12 **Insurance Agreements**

13 There are no relevant or applicable insurance agreements.
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17 Respectfully submitted this 29th day of September, 2017.

18 CHAD A. READLER
19 Acting Assistant Attorney General
20 Civil Division

21 WILLIAM C. PEACHEY
22 Director

23 GISELA A. WESTWATER
24 Assistant Director

25 SHEREASE PRATT
26 Senior Litigation Counsel

27 By: /s/ Adrienne Zack
28 ADRIENNE ZACK
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Washington, DC 20044
Telephone: (202) 598-2446
Facsimile: (202) 305-7000
Email: adrienne.m.zack@usdoj.gov
Attorneys for Defendants-Respondents

CERTIFICATE OF SERVICE

CASE NO. CV 5:16-cv-00620-JGB-KK

I certify that on September 29, 2017, I served Defendants' Initial Disclosures Pursuant to Federal Rule of Civil Procedure 26(a)(1) via electronic mail to the following counsel of record:

Ahilan T. Arulanantham
aarulanantham@aclu-sc.org

Michael Bryan Kaufman
mkaufman@aclu-sc.org

Devon Lashae Hein
devon.hein@skadden.com

Douglas Allen Smith
douglas.smith@skadden.com

Grayce S. Patricia Frink
grayce.frink@skadden.com

Judy Rabinovitz
jrabinovitz@aclu.org

Matthew Erik Delgado
matthew.delgado@skadden.com

Michael K. T. Tan
mtan@aclu.org

Stephen Bonggyun Kang
skang@aclu.org

Winston Ping Hsiao
winston.hsiao@skadden.com

Matthew Sloan
matthew.Sloan@skadden.com

Joseph Hardy
Joseph.hardy@usdoj.gov

Sherease Pratt
sherease.pratt@usdoj.gov

Michael David Hidalgo
Michael.hidalgo@skadden.com

Steven C. Miller
Steven.miller@coco.ocgov.com

John Christopher Korevec
john.korevec@skadden.com

Laura Rossini
lrossini@santa-ana.org

/s/Adrienne Zack